IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14292 of 2005

Between:

D. Chennu Subbaiah, S/o. Chenchaiah,
R/o. Kondayapallem, gate, Ummareddygunta,
Near Vinayaka Temple, Nellore Town, Nellore.

..... PETITIONER

AND

1 The District Collector, Nellore.
2 The Joint Collector, Nellore.
3 The Revenue Divisional Officer, Nellore.
4 Sri A. V. Subbarao S/o. Late A.V.Seshaiah,
R/o. Unnareddygunta, Kondayapalem Gate, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more in the nature of certiorari, calling for the records relating to and connected with the order in Rc. E.652/2004 dated 1.4.2005 of the respondent where under the order of the 3rd respondent dt.28.6.2004 appointing the petitioner as FP shop Dealer of shop No.83 of Nellore Town on permanent basis as confirmed by the 2nd respondent in his order dated 01.11.2004 were set aside and quash the same, by holding the same as being illegal arbitrary and violative of Arts. 14 and 19(1)(g) of the constitution of India, and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.P.HEMACHANDRA

Counsel for the Respondent No.1 TO 3: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.4: NONE APPEARS.

The Court, at the stage of admission, made the following :

ORAL ORDER

The 3rd respondent called for applications from eligible candidates for grant of permanent authorization for a fair price shop No.83 of Nellore town along with other shops. The applications were called for on 13-02-2004. The petitioner, the 4th respondent and others applied. After interviews the 3rd respondent found the petitioner and the 4th respondent to have fared equally but granted the authorization infavour of the petitioner in respect of the shop No.83 of Nellore town, by an order dated 28-06-2004. Consequently the petitioner complied with the concomitant conditions like caution deposit and the alike and thereafter received and distributed essential commodities for the month of July-2004.

Aggrieved by the grant of authorization to the petitioner, the 4th respondent preferred an appeal to the 2nd respondent claiming dire financial straits, adequate experience in distributing essential commodities along with his father who was earlier a fair price shop dealer, the pathetic condition of the family on demise of his father and the huge dependency of his family on this very source of livelihood. However, the 2nd respondent dismissed the 4th respondent's appeal by an order dated 01-11-2004. There upon the 4th respondent preferred a further appeal to the 1st respondent, which was allowed by the impugned order. The 1st respondent recorded in the impugned order dated 01-04-2005 that clause 12(xv) of G.O.Ms.No.53, dated 06-10-2003 which sets out guidelines for evaluating applicants' for grant of authorization, instructs that a candidate shall not have any connection with any other business directly or indirectly and on facts it is seen that the petitioner is having other sources of livelihood, such as an STD Booth in the name of his minor daughter and petty provisions shop and a Cool drinks shop and also that the 4th respondent and his family were in dire financial straits. Therefore as both of them had obtained equal rank in the initial evaluation by the 3rd respondent, the 4th respondent was better suited for grant of the authorization. This conclusion was arrived at by the 1st respondent in the plenitude of his appellate power, which involved an assessment/re-assessment of the relevant facts and circumstances. The reasoning recorded by the 1st respondent for arriving at the appellate conclusion as recorded

in the impugned order is rational and germane to the facts and circumstances. In the absence of any perversity, as this Court does not sit in an appeal against such a decision, this Court finds no warrant for interference in judicial review.

For the aforesaid reasons, there are no merits in the writ petition. The writ petition is dismissed accordingly. No order as to costs.

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GODA RAGHURAM,J

5TH JULY 2005

*TSNR

To

1 The District Collector, Nellore.
2 The Joint Collector, Nellore.
3 The Revenue Divisional Officer, Nellore.
4 Sri A. V. Subbarao S/o. Late A.V.Seshaiah,
R/o. Unnareddygunta, Kondayapalem Gate, Nellore Dist.

5. Two CCS to G.P for Civil Supplies, High Court Buildings, Hyderabad(OUT)

6. Two C.D.Copies.